

Application No. 09/914,999
Attorney Docket No. PG3619USW

BEST AVAILABLE COPY**REMARKS / ARGUMENTS**

Claims 1-31 are pending for examination. Claims 1, 13 and 31 have been amended as discussed below. Claims 4 and 5 have been cancelled. Thus, claims 1-3, 6-31 are presented for further consideration.

In the November 1, 2005 official action, the examiner rejected the pending claims under 35 USC 103(a) as obvious over LEEDOM (US 6237590), stating the "Leedom discloses in Figures 1-11 a dose protector for use in an inhaler, substantially as claimed." The examiner states that applicant hasn't claimed an air activated cover, but a cover that can be opened by air. The examiner questions whether the Leedom device is capable of being opened by air.

To address the examiner's concerns, the claim amendments made to claims 1, 13 and 31 herein more clearly bear out that the airflow/pressure-drop in the first direction itself causes the opening of the covering means, not some other means which responds to that airflow/pressure-drop. The claimed invention represents a simpler and cheaper mechanism for releasably covering a medicament dose than in the LEEDOM reference again relied upon by the Examiner.

In LEEDOM, the structure corresponding to the "covering means" is not opened by airflow/pressure-drop acting thereon. Rather, the covering means is caused to open by some mechanical, thermal or electrical means. LEEDOM provides a covering means with a shape memory attribute which biases the covering means to an open position (e.g. column 3, lines 39-42)—Leedom employs an adhesive to secure the covering means in a closed position (e.g. column 3, lines 30-38), thus sealing a dose/aliquot in the depression of the rigid substrate. A mechanical/thermal/electrical means separates the covering means from the rigid substrate by overcoming/negating the adhesive's hold on the cover means. For example, when the adhesive is a thermoset material, such as a wax, an electrical current generates heat, which melts the wax, releasing its hold on the cover. Upon release, the shape memory alloy causes the covering means to adopt its biased open position.

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There is no suggestion or motivation in LEEDOM to provide a covering means which is caused to open by the action of the airflow/pressure-drop thereon, and certainly not that one in which the covering means opens in response to airflow in a first direction but not in a second, opposite direction, as claimed herein. Opening of the cover in Leedom, once achieved by the mechanical, electrical or thermal means described -- all of which are independent of an airflow or a pressure drop-- allows entrainment of the contents of the depression regardless of the direction of airflow. In such a case, it cannot be said that this would motivate one of skill in the art to modify the teachings of Leedom (without looking to the teachings of the present application for such motivation, and thus inappropriately relying on hindsight for such motivation) to arrive at the claimed invention.

For the above reasons, withdrawal of the rejection of claims 1-3, 6-31 is respectfully solicited.

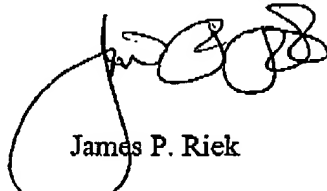
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BEST AVAILABLE COPY**CONCLUSION**

All issues raised by the examiner to date have been addressed. As such, the claims are asserted to be in a condition for allowance. Applicant requests that a timely Notice of Allowance be issued in this case. If any matters exist that preclude issuance of a Notice of Allowance, the examiner is requested to contact the applicant's representative at the number indicated below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge any fees or credit any overpayment, particularly including any fees required under 37 CFR Sections 1.16 and/or 1.17, and any necessary extension of time fees, to deposit Account No. 07-1392.

Respectfully submitted,



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James P. Riek

Attorney for Applicant
Reg. No. 39,009
Tel. (919) 483-8022
Fax. (919) 483-7988